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MANUAL

on the

INTERSTATE COMPACT

for
ADULT PAROLE
AND PROBATION SERVICES

COMMONWEALTH OF PENNSYLVANIA

DOCUMENTS SECTION

COMMONWEALTH OF PENNSYLVANIA

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Note

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PAUL J. GERNERT, Compact Administrator
Att.: Director, Interstate Services

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FORWARD

Probationers and parolees are people living in our communities. As such, they occasionally need mobility to cross state lines to accept job opportunities, relocate with their families, or meet other personal needs. The Interstate Compact agreements, joined by all of the fifty states and most of the territories of the United States, permit relocation under an organized and controlled procedure.

The use of the Compact in all probation and parole cases who plan to move across state borders will mean that every state will have knowledge of all probationers and parolees locating within their jurisdiction from any other state or territory.

The Courts and Probation Officers in Pennsylvania should note that the services of the Interstate Compact Administrator should be used in *every* case where the probationer or parolee will reside in another state.

This publication is being made available to all the Courts and Probation Offices in the Commonwealth of Pennsylvania as a source of reference on the provisions of the Compact, and to encourage cooperation in carrying out the provisions of the Interstate Compact.

Sincerely yours,

PAUL J. GERNERT,
Interstate Compact Administrator
for
Adult Parole and Probation

The Interstate Parole And Probation Compact

A. Interstate Compact

The Interstate Compact calls for interstate cooperation in parole and probation supervision. It provides a single, businesslike, legal and constitutional method of granting probationers and parolees the privilege of moving outside of the state in which they were sentenced and into other jurisdictions where they may have better opportunities for adjustment, with full protection to society.

Pennsylvania authorities signed the Interstate Compact Act, and it became effective September 21, 1937, P. L. No. 415.

B. Provisions of Interstate Compact

This provided that the State of Pennsylvania may enter into a compact with any of the United States for mutual helpfulness in relation to persons convicted of crimes or offenses who may be on probation or parole. This reads in part as follows:

1. The Contracting States Solemnly Agree:

   That it shall be competent for the duly constituted judicial and administrative authorities of a state party to this Compact (herein called "sending state"), to permit any person convicted of an offense within such state and placed on probation or released on parole to reside in any other state party to this Compact (herein called "receiving state"), while on probation or parole, if

   a. Such person is in fact a resident of or has his family residing within the receiving state and can obtain employment there;

   b. Though not a resident of the receiving state and not having his family residing there, the receiving state consents to such person being sent there.

Before granting such permission, opportunity shall be granted to the receiving state to investigate the home and prospective employment of such person.

A resident of the receiving state, within the meaning of this section, is one who has been an actual inhabitant of such state continuously for more than one year prior to his coming to the sending state and has not resided within the sending state more than six continuous months immediately preceding the commission of the offense for which he has been convicted.

2. That each receiving state will assume the duties of visitation of and supervision over probationers or parolees of any sending state and in the exercise of those duties will be governed by the same standards that prevail for its own probationers and parolees.

3. That duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any person on probation or parole. For that purpose no formalities will be required other than establishing the authority of the officer and the identity of the person to be retaken. All legal requirements to obtain extradition of fugitives from justice are hereby expressly waived on the part of states party hereto, as to such persons. The decision of the sending state to retake a person on probation or parole shall be conclusive upon and not reviewable within the receiving state: provided, however, that if at the time when a state seeks to retake a probationer or parolee there should be pending against him within the receiving state any criminal charge, or offense, he shall not be retaken without the consent of the receiving state until discharged from prosecution or from imprisonment for such offense.

4. That the duly accredited officers of the sending state will be permitted to transport prisoners being retaken through any and all states parties to this Compact, without interference.

5. That the governor of each state may designate an officer, who, acting jointly with like officers of other contracting states, if and when appointed, shall promulgate such rules and regulations as may be deemed necessary to more effectively carry out the terms of this Compact.

6. That this Compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

7. That this Compact shall continue in force and remain binding upon each executing state until renounced by it. The duties and obligations hereunder of a renouncing state shall continue as to parolees or probationers residing therein at the time of withdrawal until retaken or finally discharged by the sending state. Renunciation of this Compact shall be by the same authority which executed it, by sending six months' notice in writing of its intention to withdraw from the Compact to the other state party thereto.

C. Rules and Regulations for Supervision

The purpose of these rules is to implement the Interstate Compact relating to supervision of out-of-state parolees and probationers and their return to the sending state for violation of the terms of their parole, or probation, to the end that uniformity for out-of-state procedures may be established by the signatory states to the Compact; the rules following relate to parolees only.

1. Wherever practical a single state agency shall represent the state dealing with other states under the Compact and all correspondence and communications relating to matters arising under the Compact and under these rules and regulations should be conducted with such agencies. Where there are several agencies having coordinated jurisdiction, respective states, in

such event, will work out such methods of intercommunication and procedure as may be practical and expedient.

2. The forms in reference to (1) requests of the sending state for investigations, (2) report of receiving state on investigation, (3) agreement of parolee, (4) information when parolee is sent to receiving state, (5) arrival report and (6) reports of progress and attitude of parolee, are hereto attached and hereby made part of these rules and regulations and are to be used for the purpose indicated by the signatory states.

3. The receiving state shall, preferably on the first Monday of January, April, July and October of each year, send to the sending state a quarterly progress report in reference to the parolee, and such reports shall cover present residence of the parolee, name of employer, with type and character of employment, and the parolee's general conduct and progress, as well as his attitude toward supervision. Such reports, however, shall not be a substitute for financial or other written reports the sending state may require the parolee to send to it at periodic intervals on such forms as it may furnish the parolee or probationer.

   The foregoing, however, is not to be construed as preventing two or more states signatory hereto from agreeing among themselves for more frequent reporting concerning their respective parolees and probationers.

4. The same standard of supervision as applies in the receiving state in the supervision of its own parolees shall apply to out-of-state parolees sent there under the terms of this agreement, and such out-of-state parolees shall, as far as practical, in all respects be subject to the same disciplinary treatment as the receiving state applies to its own parolees and the receiving state is authorized in appropriate cases to grant to the parolee permission to make temporary visits out of the receiving state, not exceeding fifteen days.

5. The receiving state shall promptly upon a parole violation notify the sending state. Such reports should specify in detail the violation, and if a crime has been committed shall, wherever possible, give both the official and parolee's version of the act. Wherever practical it should be accompanied by a recommendation of the receiving state. In returning said parolee the receiving state will cooperate with the sending state in the retaking of the parolee.

6. Upon request of the sending state for a progress report with recommendation prior to consideration of the case for discharge the receiving state shall prepare and transmit such report. In cases where there has been a discharge from parole or a change in the status of the parolee the sending state shall forthwith notify the receiving state of such change.

7. All moneys which the sending state desires to collect from the parolee, either for restitution or otherwise, are to be sent directly by the parolee to the sending state and the receiving state agrees only to use its best endeavor to see that the parolee sends to the sending state such moneys.

8. The Council of the Association of Administrators of the Interstate Compact for the Supervision of Parolees and Probationers, constituting a standing committee on rules and regulations, promulgated by the Administrators of the contracting states signatory to the Interstate Compact shall from time to time formulate such amendments to these rules as may be deemed necessary. Amendments to the rules and regulations may be adopted finally at any meeting of the association by a majority vote of the active members present or represented by proxy when notice has been duly given to the active members at least thirty days prior to the meeting. Amendments of which such notices have not been given may be adopted tentatively by similar vote at any meeting, and shall become final when communicated to the members, unless, within thirty days thereafter, fifteen active members dissent.

Legal Notes On The Compact

The primary authority for the Interstate Compact for the Supervision of Parolees and Probationers is contained in federal consent legislation passed by the Congress of the United States in 1934 (Public Laws, No. 293, Seventy-third Congress, Session 1934; 18, USCA 7, 420).

All fifty states have since adopted and ratified the Compact. In addition, Puerto Rico and the Virgin Islands are signatories to the Compact.

A foundation of legal precedent in support of the Compact has developed over the years with numerous court cases testing the Compact. No State Supreme Court has ruled the Compact invalid or unconstitutional. While there is no United States Supreme Court decision on this point, the Supreme Court has refused, certiorari, in two Compact cases (Ex parte *Joseph Tenner*, 314 US 585, 317 US 597; *Pierce* v. *Smith*, 335, US 834), and in a collateral case (*Pierce* v. *Smith*, 175 F 2d (9th Cir.), cert denied 338 US 838).

Acceptance And Arrangements For Supervision

A. Eligibility for Supervision

1. Types of Cases Covered by the Compact. It will be noted that the Compact refers specifically to *"any person convicted of an offense."* Therefore, the Compact covers any infraction of the law, major or minor, for which there has been a *conviction.*

2. Residence and Employment Requirements. Compact Administrators are in general agreement that in most cases a parolee or probationer should be accepted for supervision if he has an interested, responsible relative or friend living in the receiving state, even though his immediate family may not live there.

   Before asking another state to accept supervision of a parolee or probationer, there should be assurances that he has employment or may be reasonably expected to obtain employment through family or other contacts. Both family and a job are the preferred arrangement.

B. Standards for Sending and Receiving States

1. Consent of the Receiving State. Pennsylvania's policy for parolees (and probationers) in sending them to sister states requires that they be legal residents or have family ties in receiving states, and that they be able to obtain legitimate employment. While these criteria are the rule, on occasion transfers are undertaken for other reasons, however, always with the consent of the receiving state.

   Also, all parolees who are not residents of Pennsylvania must attempt to develop parole plans in their state of origin or residence subject to above.

2. Refusal to Supervise. Under the terms of the Compact, no state should refuse to supervise a parolee or

probationer who has the required residence,employment, and other qualifications. It is up to the sending state to determine the advisability of transfer, while the receiving state may, upon a fact-finding investigation, recommend for or against a transfer. In all cases, nevertheless, the final decision as to transfer rests with the Administrator of the sending state.

3. Standards Regarding Requests for Investigation. It is requested that states be specific about the type of information desired when making requests for an investigation. Requests should be forwarded to the Compact office in ample time, at least thirty days before the parolee's or probationer's departure. This will give the receiving state adequate time to make an investigation and forward the results. All information contained in the investigation is considered confidential and use of this information is restricted to those normally dealing with the parolee or probationer.

C. Supervisory Arrangements with Non-Signatory Jurisdictions

Parole and probation officials in some jurisdictions, not members of the Compact (Canada), periodically make informal agreements for the reciprocal supervision of parolees and probationers. However, these cases do not come under the Compact in an official sense.

D. The Signing of the Waiver of Extradition

No parolee or probationer should be permitted to leave the state without signing Compact Form "Three" (Agreement to Return). This form should be completed in quadruplicate, properly witnessed by at least one other person, and either signed by a local judge (in the case of a probationer) or an official responsible for administering the Compact.

One copy should be retained by the local agency and three copies forwarded to the Compact office with the proper referral material. The importance of having the parolee or probationer sign Form Three before he leaves the state cannot be overemphasized, as there has been no serious question about extradition wherein the waiver has been signed. Without the waiver, extradition can be questioned.

Standards Of Reciprocal Supervision

Related Compact language: (Article (2) Section 4 "... each receiving state will assume the duties of visitation and supervision over parolees or probationers of any sending state, and in the exercise of those duties will be governed by the same standards that prevail for its own parolees and probationers."

The general interpretation of Article (2) of the Compact, and Section 4 of the parole and probation rules and regulations is subject to no variation. There is unanimous agreement among Compact Administrators that this language means, in effect, that a receiving state is not expected to furnish more service to out-of-state cases than it does for its own cases. However, from time to time questions arise as to desirable policies and practices to be used in connection with supervision of Compact cases. A summary of the opinions in regard to some of the more important of these questions is printed below:

A. Intensity of Supervision

1. Reduction of Supervision

When an individual with a lengthy parole or probation term is sent to a state which uses shorter parole or probation periods, the Administrators of the respective states may mutually agree to have the individual report to the authorities of the receiving state less frequently; nevertheless, this does not abrogate the Compact standard which calls for supervision-reporting. During the period of parole or probation, the sending state retains jurisdiction over the individual until it receives notice indicating release from supervision or until the period of parole or probation has terminated.

2. Reporting

The Association for Compact Administrators has

amended Section 3 of the rules and regulations to permit mutual agreement between Administrators for reporting less frequently than quarterly. In the absence of an agreement to the contrary, however, quarterly reporting is the standard of the Association of Compact Administrators.

B. Permission to Marry

A majority of the Administrators are willing to have the Administrator of the receiving state use his discretion in granting parolees or probationers permission to marry and Pennsylvania does not object to this rule.

In probation cases a man may marry unless a specific condition of probation restricts this right. When marriage is specifically denied as a condition of probation, requests for permission to marry are referred to the committing court of the sending state.

C. Permission to Use Automobiles

Most Administrators do not object to having the receiving state grant permission for the use of an automobile if this privilege is granted to the receiving state's own parolees and probationers. Pennsylvania parole officers may grant permission for a parolee to drive if he has a valid driver's license, and if he is properly insured under the state laws regarding automobile insurance.

Permission to drive would normally be extended to probationers, subject to license and insurance, unless the court ordered to the contrary.

D. Permission to Possess Guns for Hunting

Some Administrators are willing to have the receiving state grant permission to possess guns for hunting purposes if this privilege is granted to the receiving state's own parolees and probationers.

These privileges would be extended to Pennsylvania parolees and probationers unless there were specific conditions otherwise.

E. Permission to Visit in Another State

Section 4 of the Parole and Probation Regulations states, ". . . the receiving state is authorized in appropriate cases to grant to the parolee or probationer permission to make temporary visits out of the receiving state, *not exceeding fifteen days.*" Except for the temporary fifteen-day release established by this rule, the parolee or probationer should not be permitted to leave unless and until the original sending state has approved and the Compact requirements in Article I of the Compact have been met.

Before a parolee or a probationer is granted permission to visit in another state, careful attention should be given to the following official policies agreed to by the Administrators' Association:

a. The fifteen-day rule regarding visits *applies to all* interstate parolees and probationers.

b. Advance notice of visits should always be sent to the state to be visited.

c. If the parolee or probationer wishes to use the fifteen-day permit to secure employment in the other state, this matter should be handled in a spirit of mutually agreeable procedures that do not violate the principles of the Compact.

Visits to the sending state should be arranged cautiously, since such a visit might mean that the parolee or probationer would be re-entering his former criminal environment.

The Compact Administrator

It shall be the function of the Administrator to:

1. Represent the state at local and national conferences dealing with interstate parole and probation problems.
2. Call conferences within the state at such times as he deems necessary, to promote the effectiveness of the Compact.
3. Delegate authority to such officials as he may deem necessary and expedient.
4. Serve as chief state correspondent on interstate and intrastate probation and parole matters.
5. Serve as mediator in any jurisdictional dispute regarding acceptance or refusal of "in or out-of-state" probation and parole cases.
6. Recommend any revision of the interstate rules and regulations as well as federal legislation dealing with the Compact.
7. Serve as a "clearinghouse" on the movement of all interstate probationers and parolees.
8. Announce officially any necessary rules, regulations and general information regarding the operation of the Compact.
9. Sponsor legislation to facilitate operation of the Compact.

APPENDIX A

INTERSTATE PAROLE AND PROBATION FORMS

PBP 30

Pennsylvania Board of Parole
Box 66
Harrisburg, Pennsylvania

INVESTIGATION REQUEST

TO:

Date
Re:
Inst. & No.
Parole No.
Now confined
Released on

We are requesting the investigation of the placement in your State of the above subject. For details of current offense and social history, see attached Summary.

HOME:

EMPLOYMENT:

We desire to send this person on parole to your State

a. ( ) As a resident
b. ( ) Family resides in your State
c. ( ) Has employment
d. ( ) With your consent

Pennsylvania Board of Parole

_____

PBP 31

Pennsylvania Board of Parole
Box 66
Harrisburg, Pennsylvania

REPLY BY RECEIVING STATE

TO: Date

RE: State Parole No.
Inst. & No.

Pursuant to your request, the above case has been investigated by this Department, and our report is attached.

This State (agrees) (does not agree) that it shall be competent for this person to reside here while on parole or probation for the following reasons:

1. He (is) (is not) a resident of this State within the meaning of the Compact;

2. He (does) (does not) have his family residing here;

3. He (does) (does not) have employment here;

4. This State hereby (gives) (does not give) its consent to the above person residing here while on parole or probation.

Pennsylvania Board of Parole

_____

PBP 32

Pennsylvania Board of Parole
Box 66
Harrisburg, Pennsylvania

AGREEMENT TO RETURN

SENDING STATE: Pennsylvania RECEIVING STATE:

RE: Inst. & No.
Parole No.

I, _____, in consideration of being granted parole by the Pennsylvania Board of Parole and especially being granted the privilege to leave the State of Pennsylvania to go to _____, hereby agree:

1. That I will make my home with _____, until a change of residence is duly authorized by the proper authorities of the State of _____.

2. That I will comply with the conditions of parole as fixed by both the States of Pennsylvania and _____.

3. That I will, when duly instructed by the Pennsylvania Board of Parole, return at any time to the State of Pennsylvania.

4. That I hereby do waive extradition to the State of Pennsylvania from any jurisdiction in or outside the United States where I may be found and also agree that I will not contest any effort by any jurisdiction to return me to the State of Pennsylvania.

5. Failure to comply with the above will be deemed to be a violation of the terms and conditions of parole for which I may be returned to the State of Pennsylvania.

DATED _____ SIGNED _____

WITNESSES:

_____

_____

On the _____ day of _____, 19___, permission was granted to the above person to reside in the State of _____ and to be supervised by the _____.

Pennsylvania Board of Parole

_____

PBP 231 Rev. 6-61 INTERSTATE CRIME CONTRDL FDRM VI

REPORT OF PAROLE VIOLATION

RE _____ CASE NO. _____ DATE _____

TD _____ FRDM _____

DATE ARRESTED _____ DATE ABSCONOED _____ DATE MISBEHAVIDR BEGAN _____

IF ARRESTEO, GIVE SPECIFIC CHARGE _____

WHERE HELO IN CUSTODY _____

CHARGE UPDN WHICH CONVICTEO _____

DATE OF CDNVICTION _____

NAME OF CDURT _____ ADDRESS _____

JUDGE WHO HEARD CASE _____

SPECIFIC SENTENCE GIVEN _____

NAME AND ADDRESS OF INSTITUTIDN TO WHICH COMMITTEO _____

SHDULD SENDING STATE FORWARD WARRANT? YES _____ NO _____

IS RETURN RECDMMENDED? _____

SHDULD RETURN BE ATTEMPTED UNDER INTERSTATE COMPACT? _____

WILL PARDLEE WAIVE EXTRADITIDN? _____

HAS HE SIGNEO A WAIVER? _____

WILL SUPERVISION BE CONTINUED IF PAROLEE IS NDT RETURNED? _____

GIVE SPECIFIC OATE SENDING STATE'S DFFICER SHOULD ARRIVE TD TAKE PRISDNER AND HDUR OF DAY _____

_____

GIVE NAME ADORESS AND PHDNE NUMBER OF DFFICER TD BE CDNTACTED UPDN ARRIVAL _____

_____

_____

FOR OETAILS OF VIDLATIDN AND PAROLEE'S STATEMENT SEE ATTACHED PAGE.

PENNSYLVANIA BOARD DF PAROLE

_____

ELTON R. SMITH, SUPERINTENDENT
PARDLE SUPERVISION

APPENDIX B

SUMMARY OF STATE COURT OPINIONS ON THE INTERSTATE COMPACT

BURNS v. STARR
Circuit Court, 9th District, Florida, 1954

In this case the court upheld the right of New York to retake a violator who had been under Compact supervision in Florida. The Compact is not mentioned in the court's order, but the judge discussed the Compact at length orally when handing down his decision.

EX PARTE TENNER,
20 Cal 2d 670, 128 P 2d 338, Cert den 314 US 585, 317 US 597 (1942)

This is the leading case on the Compact and covers almost all aspects of its constitutionality. The United States Supreme Court refused to review the favorable decision of the California Supreme Court, thus impliedly affirming the Compact's constitutionality.

GULLEY, SHERIFF v. APPLE,
213 Ark 350, 210 S W 2d 514 (1948)

In this case the Arkansas Supreme Court reversed an unfavorable decision by the Pulaski Circuit Court. The Supreme Court held that the lower court had "misconstrued" the Compact in deciding that the Compact violated the right of habeas corpus. The Supreme Court quoted extensively from, and concurred in, the opinion of the California Supreme Court regarding constitutional questions raised in the Ex parte Tenner. The Court also held that Apple could not now protest Missouri's abandonment of extradition proceedings since he did not object when the lower court ruled that such proceedings had been abandoned. In addition the court pointed out that the testing of the sufficiency of extradition proceedings did not render a subsequent application for extradition res judicata.

IN RE NICHOLAS CASEMENTO,
24 N J Misc R 345, 49 A 2d 437 (1945)

In this case the Court of Common Pleas of Essex County, New Jersey held that Casemento could be returned under the Compact from a state which was not the receiving state named in his waiver of extradition. The court also rejected Casemento's plea that constitutional rights cannot be waived in advance.

IN RE JOSEPH COLUMBO,
Montana District Court, 8th Judicial District, March 8, 1941

This is a simple order discharging parolee to custody of an official from Washington, his sending state.

IN RE PAUL DANIEL O'NEILL,
New Jersey Superior Court, Criminal Division, Camden County, May 15, 1950

O'Neill claimed that he had signed the waiver under duress since his only alternative had been to stay in prison without parole. The court held that the waiver was valid since O'Neill had exchanged his extradition rights for the consideration of being permitted to live outside of prison on parole. The court also held that it could only enforce O'Neill's agreement to return to Pennsylvania (his sending state) and could not test his claim that he had not been permitted to see visitors after his arrest.

IN RE SEVERA,
Superior Ct., Guilford County, North Carolina, Sept. 21, 1953

Severa, a New Jersey parolee under supervision in Connecticut, went to North Carolina without permission. Although North Carolina was not the receiving state to which Severa had been sent under the Compact, Severa had agreed in his waiver not to contest any effort "by any state" to return him to New Jersey, and the court held that New Jersey might retake him without extradition.

IN RE WILLIAM WINDLE,
Ninth Judicial District Ct., Bonneville County, Idaho, No. 9079, Sept. 3, 1954

The court held that it could not review Kentucky's decision to revoke Windle's parole and retake him.

LOUISIANA EX REL DUPONT V. GROSCH, ET AL.,
Criminal District Ct., for the Parish of Orleans, No. 140-278, Affirmed, Louisiana Supreme Court No. 41,553, November 5, 1953

DuPont had absconded from Compact supervision in Louisiana and returned to his sending state, Illinois, after he had been accused of new crime in Louisiana. An Illinois court returned him to Louisiana to face the pending charge. He was acquitted and he then claimed that Illinois had lost jurisdiction over him and could not retake him as a Compact violator. The Louisiana Criminal District Court held that the Illinois court had acted properly in returning DuPont to Louisiana since the receiving state has jurisdiction over a parolee if it has a charge pending against him. The court held that jurisdiction reverts to the sending state after an acquittal. The court also held that the Louisiana officer was authorized to issue an arrest order on behalf of Illinois.

LILLEY V. PLATT
Superior Ct., Fairfield County, Conn., No. 81,966, Aug. 22, 1950

Compact does not violate provisions of Constitution regarding Compacts, extradition or due process. A Connecticut court may not review a sentence imposed by a New York court. A parolee may reject an offer of parole, but is bound by its express terms once he accepts it.

MARTIN V. SULLIVAN,
District Court, Lee County, Iowa, 1937

Illinois sent Martin to Iowa for supervision under a sponsorship agreement in 1931. He was imprisoned for a new crime in 1932. Iowa and Illinois joined the Compact in 1937, and Martin was subsequently released from prison. The court permitted Illinois to use the Compact to retake Martin.

OHIO EX REL EIKENBARY V. SMITH
39 Ohio Opinions 21, 84 N E 2d 918 (1949)

The Ohio Court of Appeals ordered Ernest Hathaway returned to his sending state, Illinois. The court held that it could not question Illinois' decision to retake a case. The court also concurred in the Tenner case ruling that the Compact does not deprive parolees of equal protection of the laws since it applies uniformly to all parolees from states which are party to the Compact. This opinion was affirmed by the Ohio Supreme Court when it dismissed Hathaway's petition on the ground that no debatable constitutional question was involved.

OHIO EX REL NAGY V. ALVIS
152 Ohio State, 515, 90 N. E. 2d 582 (1950)

Nagy, a New York parolee, was sent to Ohio for supervision and was imprisoned there for a new crime. New York attempted to retake him upon his release, and he sought a writ of habeas corpus, claiming that he had served out his entire New York sentence. The Ohio Supreme Court held that the question of whether Nagy had served his maximum term must be determined in New York rather than Ohio since the Compact provides that receiving states may not "inquire into the matters set forth in the warrant for retaking."

OPINION OF ATTORNEY GENERAL OF IDAHO, 1956

Compact procedure may be used to retake a parolee from a state which is not the "receiving state" named in his waiver.

OPINION OF THE ATTORNEY GENERAL OF IOWA, 1949

Persons under Compact supervision may be retaken without formal extradition proceedings.

OPINION OF THE ATTORNEY GENERAL OF KENTUCKY, 1949

Persons under Compact supervision may be retaken without formal extradition proceedings.

OPINION OF THE ATTORNEY GENERAL OF KENTUCKY, 1951

The provision granting the receiving state permission to make investigations is mandatory and therefore must be complied with before either judicial or administrative authorities of the sending state permit the probationer to reside in the other state.

PEOPLE EX REL MARRO V. RUTHAZER,
Supreme Court, New York County, Special Term, Part II, March 28, 1955

The New York Supreme Court (a lower court in New York State) held that the question of whether Marro's North Carolina maximum had expired must be determined in North Carolina rather than New York. The court followed People Ex rel Rankin v. Ruthazer in holding that the Compact did not violate provisions of the Constitution regarding habeas corpus, due process or equal protection of the laws. Marro had been sent by North Carolina to Connecticut for supervision, and had gone to New York without permission. The court did not make any comment about the fact that New York was not Marro's "receiving state" other than to call attention to the fact that all three states were members of the Compact.

PEOPLE EX REL RANKIN V. RUTHAZER,
304 NY 302, 107 NE 2d 458 (1952)

Rankin was paroled by Michigan to New York to face a New York murder charge. The indictment was dismissed and, when Michigan attempted to retake him, Rankin petitioned for a writ of habeas corpus. The New York Court of Appeals (New York's court of last resort) held that the Compact did not violate constitutional guaranties regarding habeas corpus, due process or equal protection of the laws. The court also affirmed the decision of New York's lower courts that the question of whether Rankin's parole had expired must be decided in Michigan rather than New York.

PEOPLE EX REL ROLAND V. FINCH,
Circuit Court of Lee County, Illinois, April Term, 1950

Roland, an Indiana parolee, had been permitted to go to Illinois for supervision. Illinois took him into custody as a violator, although an arrest warrant issued by Indiana had not yet arrived. The court held that Roland might be held a "reasonable time" pending arrival of the expected warrant.

PIERCE V. SMITH,
31 Wash 2d 52, 195 P 2d 112 (1948), cert den 335 U S 834 (1948)

Pierce was returned to Washington from Oregon where he had been under Compact supervision. He claimed that he had been removed from Oregon unlawfully. The Washington Supreme Court concurred in the holdings in the Tenner case that the Compact did not violate constitutional or statutory provisions regarding extradition, due process or equal protection of the laws. The United States Supreme Court refused to review this case and it also refused to review a collateral case, Pierce v. Smith, below.

PIERCE V. SMITH,
175 F 2d 193 (9th cir), cert den 338 U S 838 (1949)

In this case the United States Court of Appeals ruled against Pierce on several points which did not involve the Compact. The court then went on to say, "A third point urged by the petitioner is that in 1945 he was improperly brought back to Washington by the State of Oregon. However, the only inquiry here is the validity of the petitioner's present confinement. The manner of obtaining jurisdiction is not now subject to review. . . Even if it were we think petitioner's point was correctly disposed of by the Washington court in Pierce v. Smith, supra."

OPINION OF ATTORNEY GENERAL OF LOUISIANA, 1947

Parole cannot be revoked for acts committed while parolee is insane. A Louisiana parolee under supervision in another state is still constructively present in Louisiana and does not lose Louisiana residency. The Administrators of the sending and receiving states have authority under the Compact to promulgate rules covering disposition of cases where parolee has become insane in the receiving state.

OPINION OF ATTORNEY GENERAL OF MARYLAND, 1946

A person declared "delinquent" by the sending state may be retaken without extradition proceedings as long as his parole has not been revoked. A waiver is not required.

OPINION OF ATTORNEY GENERAL OF NEW YORK, 1942

A state may not enter the Compact with some states and not others. A state may not renounce the Compact insofar as some states are concerned while continuing it in force as regards other states.

OPINION OF ATTORNEY GENERAL OF OREGON, 1943

Receiving state may turn parolee over to sending state without requisition, warrant of rendition or other extradition proceedings.

OPINION OF ATTORNEY GENERAL OF VERMONT, 1951

Vermont officers who seek to apprehend New Hampshire probationers in Vermont must do so in accordance with the Vermont statutes; however, certain procedures are waived when a New Hampshire officer enters Vermont to apprehend a probationer and no formalities are required except the establishment of the authority of the officer and the identity of the probationer.

OPINION OF ATTORNEY GENERAL OF VIRGINIA, 1951

Virginia should bear the expense of confining an out-of-state parolee pending his delivery into the custody of the sending state.

OPINION OF ATTORNEY GENERAL OF WYOMING, 1955

Compact procedure may be used to return an individual from a state which is not the "receiving state" named in his waiver.

PALUMBO V. ROBBINS,
N. P. 3038 Superior Ct., Providence, Rhode Island, March 4, 1952

Palumbo claimed that Rhode Island had abrogated the Compact by enacting the Uniform Criminal Extradition Act, and therefore could not permit Massachusetts to use Compact procedure in retaking him. He also claimed that the use of a fugitive warrant did not follow the procedure set forth in the Compact. The court held that the Compact was not in conflict with the extradition act and was not repealed by the enactment of said act. The court also dismissed Palumbo's claim that Compact procedure had been violated.

STATE OF VERMONT V. WILLIAM H. WILSON,
Municipal Court, New Hampshire, 1950

Wilson claimed that he must be extradited to Vermont. The court ordered him returned to Vermont under the Compact.

STONE V. ROBINSON,
69 So 2d 206 (Mississippi Supreme Court, 1954)

Stone, a Louisiana parolee under supervision in Mississippi, sought a writ of habeas corpus when Louisiana attempted to retake him. The court held that the Compact did not conflict with the Constitution regarding the making of Compacts, extradition or due process. The court also held that Stone could be retaken without having his parole revoked, that Louisiana's certificate and warrant were admissible in evidence, that Mississippi's arrest warrant was authorized by the Compact, and that Stone could be retaken despite a pending Mississippi charge as long as Mississippi did not object.

U. S. EX REL MacBLAIN V. BURKE,
200 F 2d 616 (3rd cir) 1952 (United States Court of Appeals)

MacBlain claimed that the Compact was unconstitutional because it prevented the receiving state from reviewing a sending state's decision to retake a case, and he claimed that he was being held unlawfully since his removal under the terms of the Compact from New Jersey to Pennsylvania had been unconstitutional. The court held that MacBlain's claim was "meritless."

WOODS V. ALABAMA,
6 Div. 945, Alabama Supreme Court, May 24, 1956

Woods, a New York parolee who had been under supervision in Alabama, claimed that he could not be taken back to New York

because the Compact violated the due process clause of the Constitution. Quoting extensively from Ex parte Tenner and Gulley, Sheriff v. Apple, the court held that the Compact did not violate due process.

OPINION OF ATTORNEY GENERAL OF PENNSYLVANIA, 1960

There is no way to prevent courts from sending "non-qualified" parolees or probationers into other states. However, when "non-qualified" persons are sent into other states, I am of the opinion that Pennsylvania cannot enforce the parole or probation as provided in paragraphs 2, 3 and 4 of Section 1 of the Compact, nor can the receiving states compel the return to Pennsylvania of such person. To return the person to Pennsylvania, resort would have to be made to extradition, if it is available. It appears to me, therefore, that the "parole" or "probation" of a "non-qualified" person to another state without complying with the Compact, being a release without supervision, is in effect an outright release.

HANLEY V. LANGLOIS, WARDEN,
M. P. No. 1436, Supreme Court of Rhode Island, November 15, 1961

Proceeding on petition for a writ of habeas corpus by a state prisoner. The Supreme Court, Paolino, J., held that the petitioner by his removal to Massachusetts for parole violation prior to the disposition of charges pending against him in Rhode Island was not deprived of his constitutional right to a speedy trial of charges pending in Rhode Island, and his removal did not constitute a waiver of state's jurisdiction to indict and prosecute the petitioner. Petition denied and dismissed and writ quashed.

COMMONWEALTH OF PENNSYLVANIA

WILLIAM W. SCRANTON
GOVERNOR

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